



# **CITY OF HOLLY HILL BOARD OF PLANNING AND APPEALS**

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## **AGENDA PACKET**

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**TITLE:** Board of Planning and  
Appeals Meeting

**DATE:** Monday, May 2, 2011

**TIME:** 6:30 PM

**LOCATION:** City Commission Chambers  
1065 Ridgewood Avenue  
Holly Hill, FL 32117



**AGENDA**  
**CITY OF HOLLY HILL, FLORIDA**  
**BOARD OF PLANNING AND APPEALS MEETING**  
**Monday, May 2, 2011**  
**6:30 PM**

**CITY COMMISSION CHAMBERS**  
**1065 Ridgewood Avenue, Holly Hill, Florida 32117-2898**  
**City Clerk's Office: (386) 248-9441 Fax: (386) 248-9448**

**1. CALL TO ORDER**

- A. Roll Call
- B. Invocation
- C. Pledge of Allegiance to the Flag

**2. MINUTES**

- A. Minutes from the Board of Planning and Appeals Meeting – April 4, 2011

**3. NEW BUSINESS**

**A. V-2011-01 536 Center Avenue**

**Applicant – Richard Nation**

This is a request for a variance to allow temporary storage units beyond the 30 day limit allowed by the City Code.

**B. Z-2011-03 Definition of Bar**

**Applicant – City of Holly Hill**

This is a staff request to amend the definition of bar to include the term bottle club

**C. Moratorium on Specific Uses**

**Applicant – City of Holly Hill**

This is a staff request to establish a moratorium on certain uses including pill mills, internet cafes, sweepstakes cafes and bottle clubs to determine if additional regulation is needed.

**D. Rental Inspection Requirements**

**Applicant – City of Holly Hill**

This is a staff request to modify the requirements for rental inspections to exclude the inspection requirements for projects with four or fewer units.

#### 4. OLD BUSINESS

A. None

#### 5. COMMUNICATIONS

#### 6. ADJOURNMENT

Website Address – [www.hollyhillfl.org](http://www.hollyhillfl.org) (City Clerk)

**NOTICE** – If any person decides to appeal any decision made by said body with respect to any matter considered at such meeting, he/she will need a record of the proceedings and, for that purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The City does not prepare or provide such a record.



For special accommodations, please notify the City Clerk's Office at least 72 hours in advance. (386) 248-9441



Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the City Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Commission proceedings should contact the City Clerk's Office no later than three (3) days prior to the proceedings.

**MINUTES  
FROM THE OFFICE OF THE CITY CLERK**

AGENDA

ITEM:   2  

DATE: May 2, 2011

**MINUTES  
BOARD OF PLANNING AND APPEALS MEETING  
CITY OF HOLLY HILL, FLORIDA**

**April 4, 2011**

**1. CALL TO ORDER**

**A. Roll Call**

Michael Myer called the meeting to order in the Commission Chambers at City Hall, 1065 Ridgewood Avenue at approximately 6:30 p.m. Attending with Michael Myer were Board members Chris Kiley, Phillip Wiggins, and John Sterling.

Excused Absence: J.D. Mellette

Also attending were the following staff members: City Attorney Scott Simpson, City Planner Thomas Harowski, and City Clerk Joshua Fruecht.

**B. Invocation**

Mr. Myer delivered the Invocation.

**C. Pledge of Allegiance to the Flag**

Mr. Myer led the Pledge of Allegiance.

**2. MINUTES**

**A. Minutes from the Board of Planning and Appeals Meeting – February 7, 2011**

*Mr. Kiley moved **APPROVAL** for the **Minutes**, seconded by Mr. Wiggins.*

The motion **CARRIED** 4-0 unanimously: Kiley – Yes , Wiggins– Yes, Sterling – Yes, Myer – Yes.

**3. NEW BUSINESS**

**A. Z-2011-02: Rezoning Request (Halifax Media Holdings LLC)**

This is a request to rezone approximately 1.57 acres on Nova Road from R-2 Single Family Residential to B-5 General Commercial.

City Planner Thomas Harowski gave an overview of the case from the provided Staff Report.

**Mr. Myer opened public participation.** No one spoke.

*Mr. Kiley moved APPROVAL for Z-2011-02: REZONING REQUEST (HALIFAX MEDIA HOLDINGS LLC) rezoning approximately 1.57 acres on Nova Road from R-2 Single Family Residential to B-5 General Commercial, seconded by Mr. Wiggins.*

The motion **CARRIED** 4-0 unanimously: Kiley – No, Wiggins – Yes , Sterling – Yes, Myer – Yes.

## **2. OLD BUSINESS**

### **A. Board of Planning and Appeals Sign-in form**

Mr. Myer asked as to the status of the Board of Planning and Appeals sign-in form. City Attorney Scott Simpson informed the board that he would work with City Clerk Joshua Fruecht to have the form ready by the next meeting.

## **3. OTHER – Staff Comments**

There were no comments

## **4. ADJOURNMENT**

The meeting officially adjourned at approximately 6:55 p.m.

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Joshua Fruecht  
City Clerk

## **NEW BUSINESS**

### AGENDA

ITEM: 3

DATE: May 2, 2011

**V-2011-01**

AGENDA

ITEM: 3A

DATE: May 2, 2011



# STAFF REPORT

City of Holly Hill  
Community Development Department

## Board of Planning and Appeals *Agenda Item*

**DATE:** APRIL 8, 2011  
**SUBJECT:** PORTABLE STORAGE UNIT TIME PERIOD  
**APPLICANT:** RICHARD NATION  
**NUMBER:** V-2011-01  
**PLANNER:** THOMAS HAROWSKI, AICP

**INTRODUCTION:** The applicant has two large storage containers located on site at 536 Center Avenue and is asking for a variance to allow the container units to be on site beyond the 30 day limit allowed by Section 114-745 of the land development code. No expiration time period is proposed.

**BACKGROUND:** The applicant has been cited by code enforcement for the placement of two storage units on residential property at 536 Center Avenue. The storage units are in excess of 40 feet long and about nine feet high. The applicant is applying for a variance to allow the storage units to remain on site beyond the 30 day period allowed for temporary storage units in an effort to address the outstanding code violation.

The applicant has explained that the units hold personal belongings and work tools for a construction business that he can no longer afford to maintain off-site. The applicant has submitted a completed application for the variance and has indicated a willingness to provide screening by a fence and/or landscaping.

**DISCUSSION:** Section 114-745 of the land development code allows for the placement of temporary storage facilities at a residential property for a period not to exceed 30 days. The section reads as follows:

**Sec. 114-745. Portable storage units.**

- (a) *Definition:* A portable storage unit is any enclosed structure that does not require a building permit, is not required to be anchored according to the city's adopted building codes and is transported by truck or trailer for placement upon residential property for the purpose of short-term storage as defined herein
- (b) Vendors of portable storage units, to include lessors, are required to notify the city in writing, by letter, fax or e-mail, of the placement of a portable storage unit within the city limits. Such notice shall contain the residential address of the placement, the name of the occupant at such residential address and the anticipated duration of the placement.

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## City of Holly Hill Community Development Department

- (c) *Time limitation:* A portable storage unit shall be permitted at one residential location for a period not to exceed 30 days in any six consecutive months. Code administrator can extend it for 30 days and anything beyond that has to come before the city commission to grant a 30-day extension upon proof of hardship.
- (d) *Placement:* Portable storage units may be placed in any driveway area, but must be a minimum of 20 feet from the edge of any roadway and five from any side lot line.

While the storage units regulated by this section of the code anticipate a smaller unit like a PODS type unit than the units placed at 536 Center Avenue, there is no maximum unit size. The units are located on the site so that they are more than 20 feet from the road and more than five feet from the side property line. The units have been in place for more than 30-days, and the applicant desires a longer term placement than can be obtained with a 30-day extension.

The applicant states that the lot is larger than typical lots in the area and therefore better able to accommodate the storage units. The applicant has indicated a willingness to screen the units with a fence and/or landscaping.

**RECOMMENDATION:** The granting of a variance to extend the time for placement of storage units will grant to this property owner a privilege that is not generally available to other properties in the same zoning district. The code as interpreted will not deprive the applicant of rights commonly enjoyed by other properties in the district. While the circumstances that have led to the placement of the storage units on site are largely driven by current economic circumstances, the hardship is self imposed. The staff does not believe the circumstances meet the test for a variance and therefore cannot recommend approval.

Should the Board of Planning and Appeals determine the variance should be granted, the staff recommends that a time limit on the placement of the storage units be established and that specific screening be required.

# STAFF REPORT

City of Holly Hill  
Community Development Department



VIEW OF CONTAINERS FROM CENTER AVENUE.

# STAFF REPORT

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VIEW OF SITE LOOKING FROM SOUTH TO NORTH SHOWING  
CONTAINERS, RESIDENCE AND OTHER STRUCTURES ON SITE.

# STAFF REPORT

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VIEW OF NORTH END OF SITE SHOWING OTHER ACCESSORY STRUCTURES AND VEHICLES.

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VIEW OF SITE FROM NORTH END LOOKNIG SOUTH. CONTAINERS ARE LOCATED TO THE LEFT OF THE RESIDENCE.

**Z-2011-03**

AGENDA

ITEM: 3B

DATE: May 2, 2011



# STAFF REPORT

City of Holly Hill  
Community Development Department

## Board of Planning and Appeals *Agenda Item*

**DATE:** APRIL 7, 2011  
**SUBJECT:** DEFINITION OF BARS  
**APPLICANT:** ADMINISTRATIVE REQUEST  
**NUMBER:** Z-2011-03  
**PLANNER:** THOMAS HAROWSKI, AICP

**INTRODUCTION:** The request is to amend the definition of “bar” in the city code to include bottle clubs.

**BACKGROUND:** The City has been fielding some recent inquiries about bottle clubs, and in reviewing our definition of bars it is not totally clear that bottle clubs are included. In order to make certain that all of the regulations that apply to bars are applicable to bottle clubs, staff is suggesting a modification to the definition of “bar” in the land development code.

**DISCUSSION:** In staff’s view the only practical difference between a bar and a bottle club is in who provides the alcohol for on-site consumption. The issues of public safety and compatibility with adjacent uses and neighborhoods remain the same for the activity regardless of how the alcoholic beverages are provided. This change will affect only the location of bottle clubs and bars as permitted uses and special exception uses. It will not affect the required spacing from churches or schools. These requirements remain the same. The proposed change will also not expand the areas where bars or bottle clubs may be permitted in the city. The proposed language is as follows:

*Bar* means premises devoted primarily to the retailing and drinking of malt, vinous or other alcoholic beverages, or any other premises where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable for consumption on the premises. The word "bar" shall be considered synonymous with the words "saloon," "tavern," "pub," "barroom," "cocktail lounge," “**bottle club**” and "cabaret."

**RECOMMENDATION:** Staff recommends the Board of Planning and Appeals recommend the City Commission adopt the amendment.

**Moratorium on Specific Uses**

AGENDA

ITEM: 3C

DATE: May 2, 2011



# STAFF REPORT

City of Holly Hill  
Community Development Department

## Board of Planning and Appeals *Agenda Item*

**DATE:** APRIL 15, 2011  
**SUBJECT:** MORATORIUM ON SELECTED PERMITTED USES  
**APPLICANT:** CITY OF HOLLY HILL  
**NUMBER:** Z-2011-04  
**PLANNER:** THOMAS A. HAROWSKI, AICP

**INTRODUCTION:** The City staff has been reviewing regulations for certain uses including “pill mill” pain management clinic, and internet cafes and sweepstakes cafes that promote gambling. The current regulations need some improvements to properly regulate these types of uses and the staff believes that a moratorium on approving these uses should be imposed while regulations are developed.

**BACKGROUND:** The uses listed above have created significant problems in many communities and local governments across Florida have been regulating these uses to mitigate the negative effects from their operation. A number of local governments in the vicinity and across the state have adopted regulations restricting and regulating uses such as pill mills and internet cafes focused on gambling. As more local governments adopt rules, the pressure from these uses to locate in cities where regulations have not yet been considered increases. Holly Hill has been getting increasing inquiries about locations for these uses, and the Board of Planning and Appeals and the City Commission need time to review rules and adopt reasonable regulations for these uses.

**DISCUSSION:** One effective tool for allowing time to develop well considered regulations is the establishment of a moratorium on the approval of selected uses while regulations are prepared. A moratorium is limited in time based on the time needed to draft rules. Typically six months is set as an initial time period, but the time may be shorter or longer depending on the needs in the individual case. Once rules have been developed and adopted, the moratorium is lifted.

**RECOMMENDATION:** Recommend the City Commission adopt a moratorium on internet cafes, sweepstakes cafes, and pill mill pain management clinics to allow time to review current rules and adopt changes if needed.

## Rental Inspection Requirements

AGENDA

ITEM: 3D

DATE: May 2, 2011



# STAFF REPORT

City of Holly Hill  
Community Development Department

## Board of Planning and Appeals *Agenda Item*

**DATE:** APRIL 27, 2011  
**SUBJECT:** RENTAL INSPECTION REQUIREMENTS  
**APPLICANT:** CITY OF HOLLY HILL  
**NUMBER:** NA  
**PLANNER:** THOMAS HAROWSKI, AICP

**INTRODUCTION:** The City staff has been discussing the obstacles to effectively implementing portions of the current rental inspection requirements associated with the business tax receipt process, and a number of complaints have been voiced by the private sector regarding compliance with current building codes in older structures. A proposal will be presented to the City Commission regarding discontinuance of the current requirement to annually inspect all rental units in buildings of four units or less, and the recommendation of the Board of Planning Appeals is being requested as part of this process.

**BACKGROUND:** The City of Holly Hill is one of only two cities in Volusia County that require inspections of residential rental units in buildings of four units or fewer. Rental units in buildings or projects of five units or more are required to comply with State of Florida inspection requirements and periodic fire inspections as directed by building and fire codes, and these requirements will continue in force regardless of local ordinance actions. The inspection process for units in projects of four or fewer units has proven to be a significant administrative problem and has been extremely costly in terms of manpower to schedule and conduct inspections.

Restructuring the inspection and licensing requirements to mirror state requirements will reduce operating costs for the city and costs to the rental units themselves.

**DISCUSSION:** The City currently has about 1,000 units registered in the rental inspection program that are below the state mandated inspection threshold. The code requires that these units be inspected annually, but in practice this has proven to be impossible to complete. Inspections are difficult and time consuming to schedule, and when an inspection identifies improvements that must be made, repeat inspection have encountered the same scheduling issues.

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Often multiple follow-up inspections are required to obtain compliance from an individual unit.

The fire department has been bearing the primary burden for scheduling inspections and coordinating with building inspection staff. Since the building inspection function is a contract operation, there has been a significant cash cost for operating the program. In theory, a portion of the business tax receipt (old occupation license) covers the cost of this inspection, but when multiple inspections are required, the cost quickly gets out of hand with no opportunity for cost recovery. There are also some technical issues relative to the application of building and fire codes that are difficult to implement.

In many instances the unit owner's insurance will require some compliance with safety items and renters can provide insurance for contents in addition to other coverage. A modification of the current regulation to exclude smaller units will put Holly Hill on the same basis as most other communities in the County.

**RECOMMENDATION:** Attached is a draft revision of Section 62-26(4) regarding rental licenses that has been prepared by the Fire Department in response to the proposal to terminate the inspection process for rental units of four units or fewer.

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(4) *Rental dwellings.*

a. *Local business tax receipt required.* It shall be unlawful for any owner of residential property to rent or lease, or offer to rent or lease (throughout this section the terms rent and lease are synonymous; as are the terms to rent or lease and to offer to rent or lease) therein any dwelling or dwelling unit(s)--whether single family, duplex, tri-plex, multifamily, apartment, condominium, ~~or more than one room~~ **with five or more units in one building or on one property requiring a state apartment license**, ~~et~~—unless a current local business tax receipt therefore has been issued by the city, a copy of which is to be available at the structure in which the dwelling unit(s) [is] located.

~~b. *Annual inspection required.* Each dwelling unit licensed for rental must pass an annual inspection by a city code inspector(s). The singular for the term "code inspector" or "inspector" includes the plural for purposes of the ordinance, and the term is gender neutral. The purpose of the annual inspection shall be to determine compliance with the International Property Maintenance Standard Housing Code, other applicable codes, and the supplemental provisions of this section. Annual inspection of such property shall be accomplished in a systematic manner according to administratively determined plans and schedules.~~

~~c. *Exception for owner occupied dwellings not renting more than one room.* No rental housing local business tax receipt or related annual housing inspection is required of any property owner who occupies a single family dwelling and rents not more than one room in that building, providing that nothing in this exception otherwise excuses such an owner from compliance with the International Property Maintenance Code or any other applicable code.~~

~~d. *Local business tax receipt fee.* The rental housing local business tax receipt fee shall be equal to the fee for a home local business tax receipt and a separate such fee shall be charged for each rental dwelling unit irrespective of the number of rental dwelling units under single ownership and irrespective of the number of local business tax receipts held by a particular licensee.~~

~~e. *Receipt application.* The owner of record of each dwelling unit which is rented, or offered for rent, with the exception of apartment buildings of four units or more, shall make written application to the code administration for a rental housing local business tax receipt(s) to engage in the business of renting residential property, setting forth the address, classification (whether single family, duplex, triplex, multifamily, apartment, condominium, or more than one room) and lessee (if such exists) of each dwelling unit to be licensed for rental, on such form or forms as the code development [administrator] shall from time to time designate. An agent of one or more owners may apply for multiple receipts, upon written authorization from each owner represented, provided that such authorization acknowledges receipt of a copy of this ordinance and a copy of the International Property Maintenance Code and acknowledges that failure to abide by this section or other applicable codes and ordinances may result in a fine and/or a lien upon the property of the owner. A single local business tax receipt is allowed to cover one or more rental dwelling units under single ownership in the same structure; however, a~~

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~~separate local business tax receipt fee shall be required for each rental dwelling unit covered by any rental housing local business tax receipt.~~

~~f.—*Special inspection provisions.*—~~

~~(i)—*Special provisions for properties served with septic tanks.*—The city's annual rental housing inspection shall include an assessment of the condition of the septic tank system for any rental property not connected to a public sanitary sewer system. If the code inspector determines that the condition of the septic tank system is inadequate, the property owner shall be required to obtain the services of a licensed septic tank contractor to inspect the system and repair or replace it (if necessary).~~

~~(ii)—*Special provisions for properties served by private potable water wells.*—Every year as part of the annual rental housing inspection, the licensee whose property is subject to inspection but not connected to a public potable water supply system shall provide to the inspector evidence that water from the private potable water source has been tested and found sanitary and potable through a standard and customary bacteriological test done by a state-certified laboratory within three months of the date of inspection. The water sample for testing shall be taken by a qualified employee of the city public works department.~~

~~(iii)—*Rights of privacy and freedom from unreasonable search.*—Each licensee engaged in the business of renting residential property shall undertake to make such property available for reasonable inspection by the city code inspector to determine compliance with the International Property Maintenance Code, other applicable codes and the supplemental provisions of this ordinance, provided that the city shall at all times honor the rights of the licensee and the lessee, as provided in this subsection.~~

~~Inspections required under this section shall be made only by a code inspector(s) designated by the city manager. No law enforcement officer may accompany a code inspector unless there is probable cause to believe that the inspector's personal safety is at risk during the inspection. No other person may accompany a code inspector without the consent of the licensee or lessee.~~

~~The code inspector shall make his or her inspections during daylight hours, unless:~~

~~a) The code inspector has made an appointment for another inspection time, at the request of the lessee, or~~

~~b) The code inspector has previously attempted two or more times to complete an inspection during daylight hours and has found no adult person on the premises authorized to admit the inspector.~~

~~At the commencement of each inspection, the code inspector shall present credentials and identification and advise the licensee, lessee, or adult person authorized to admit the inspector that an inspection is required under the provisions of this section. If need be, the inspector shall provide the referenced occupant or other authorized person with a copy of this section.~~

~~If the code inspector is denied admittance by the licensee or lessee, or if the code inspector fails in at least three attempts to complete an inspection of the premises because there was no adult person on the premises to admit him, the inspector shall provide notice of failure of inspection to the licensee by certified mail to the address shown on the~~

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~~receipt or other legal service. Within ten days after receipt or refusal of such notice, the licensee shall arrange the admittance of the inspector to the certified premises for the completion of the required inspection. If the licensee fails to arrange such admittance, the city council shall revoke the rental housing local business tax receipt and shall notify the licensee of such revocation by certified mail or other legal service. If the licensee thereafter continues to permit the rental of the premises for residential use without inspection, he shall be subject to proceedings before the city commission for violation of this section and for any other code violations, which may be apparent. Nothing in this paragraph limits any other legal remedy available to the city.~~

~~Notwithstanding any other enforcement provisions of chapter 62 of this Code, whenever the code inspector notices violations, the licensee shall be cited and enforcement pursued through the code enforcement process.~~

~~The city shall administratively adopt an official rental housing inspection form, based upon the International Property Maintenance Code, with a checklist of items to be noted by the inspector. This form shall be made available to the public. Any rental housing inspection shall focus upon, but not necessarily be limited to, the items set out on such a checklist.~~

(g) *Emergency inspections and remediation.* Nothing in this section limits or supplants the power of the code inspector under the city's ordinances, rules and regulations, and the authority granted under state law, to take necessary action, consistent with the law, to protect the public from property which constitutes a public nuisance as defined under state law or city ordinances, codes or regulations and to abate such a nuisance by any other lawful means or proceedings.